

IN RE: Thomas C. Farnsworth, Jr.)
Ward 073, Block 037, Parcel 00046) Shelby County
Industrial Property)
Tax Year 2005)

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$177,700	\$426,500	\$604,200	\$241,680

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 20, 2006 in Memphis, Tennessee. In attendance at the hearing were registered agent Jim Schwalls and Shelby County Property Assessor's representative Rick Middleton, TCA.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 24,000 square foot distribution warehouse constructed in 1972 located at 4040 Delp in Memphis, Tennessee.

The taxpayer contended that subject property should be valued at \$510,000. In support of this position, the income approach was introduced into evidence.

The assessor contended that subject property should be valued at \$604,200. In support of this position, the income approach and several comparable sales were introduced into evidence. In addition, Mr. Middleton sought to introduce the August 24, 2005 sale of subject property for a recorded consideration of \$743,066.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$604,200 based upon the presumption of correctness attaching to the decision of the Shelby County Board of Equalization.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization

Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's income approach cannot be adopted as the basis of valuation absent additional proof. Most importantly, the administrative judge finds that it appears to contain a significant mathematical error. In particular, the pro forma indicates that expenses of 15¢ per square foot and reserves of 15¢ per square foot are being assumed. Yet, reserves are calculated at \$3,600 and expenses at \$9,504. The administrative judge finds that expenses should also equal \$3,600. This one change alone results in a revised value indication of \$624,000 before consideration of the lease-up discount discussed immediately below.

The administrative judge finds that Mr. Schwalls' \$53,400 deduction to account for lost income during the lease-up period must be rejected absent additional proof. Respectfully, the lease-up analysis appears unduly pessimistic thereby resulting in an excessive deduction. Moreover, given a revised value indication of \$624,000, a more conservative deduction for lost income would not necessarily be sufficient to result in a reduced appraisal because the parties' contentions of value would not differ by a statistically significant amount.

Based upon the foregoing, the administrative judge finds it technically unnecessary to address the assessor's proof. Nonetheless, the administrative judge finds it appropriate to note that the August 24, 2005 sale of subject property cannot be considered for two reasons. First, it occurred after the assessment date of January 1, 2005 and is therefore irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumption reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. Second, it appears from Mr. Schwalls' testimony that the sale price was an allocation from a transaction involving the sale of over 30 properties.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$177,700	\$426,500	\$604,200	\$241,680

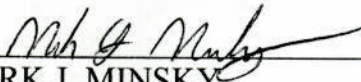
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of October, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jim Schwalls
Tameaka Stanton-Riley, Appeals Manager